

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
LAFAYETTE DIVISION

JOSEPH HONKISZ,

Plaintiff,

v.

MVS TRANSPORT, LLC, R&L
FREIGHT, AND GERSON MOLINA
GUEVARA.

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CASE NO.: 4:22-cv-80

Defendants.

TO THE HONORABLE JUDGES AND CLERK OF THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF INDIANA.

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. § 1332, 1441, and 1446; Defendants,
MVS TRANSPORT, LLC, R&L FREIGHT, and GERSON MOLINA GUEVARA (collectively
“Defendants”), by counsel, hereby file this Notice of Removal to remove the above-entitled action
to this Court based upon the following supporting grounds. Defendants, appearing solely for the
purpose of this removal, and for no other purpose, and preserving all other defenses available to
them, state as follows:

VENUE

1. Removal to the Northern District of Indiana is appropriate pursuant to 28 U.S.C. §
1441(a), because the Northern District of Indiana, Lafayette Division, embraces the County of
Tippecanoe, where the action was pending prior to the filing of this Notice of Removal.

REMOVAL IS TIMELY

2. On or about September 10, 2022, Defendant, R&L Freight was served by certified mail with a Summons and Complaint in the above-entitled action to its National Registered Agent in Houston, Texas.

3. On or about September 13, 2022, Defendant, Gerson Molina Guevara was served by certified mail with a Summons and Complaint in the above-entitled action to his home address in Alvin, Texas.

4. On or about September 13, 2022, Defendant, MVS Transport, LLC was served by certified mail with a Summons and Complaint in the above-entitled action to its National Registered Agent in Alvin, Texas.

5. The above-entitled action was commenced against Defendants in the Tippecanoe County Superior Court, of the State of Indiana, Cause No.: 79D01-2209-CT-000135 and is now pending therein. Therefore, removal is timely under 28 U.S.C. § 1446 (b)(1).

STATE COURT PROCEEDINGS

6. On September 06, 2022, Plaintiff, Joseph Honkisz (hereinafter “Plaintiff”) filed his Complaint and Summons in the above-entitled action against Defendants in the Tippecanoe County Superior Court in the State of Indiana, Cause No. 79D01-2209-CT-000135 and is now pending therein.

7. Defendants’ counsel filed their Appearances, Motion for Extension of Time, and Request for a Jury Trial in the Tippecanoe County Superior Court on September 27, 2022.

8. On September 28, 2022, Defendants’ Motion for Extension of Time was Granted.

DIVERSITY JURISDICTION EXISTS

9. This is a civil action that falls within the Court's original jurisdiction under 28 U.S.C. § 1332 and is one that may be removed to this Court based on diversity of citizenship under 28 U.S.C. §§ 1441 and 1446.

10. Plaintiff, Joseph Honkisz, is a citizen of the State of Indiana.

11. Defendant, Gerson Molina Guevara, is a citizen of the State of Texas.

12. Defendant, R&L Freight, is a Texas limited liability company with its principal place of business in Texas.

13. Because R&L Freight is not incorporated in Indiana or have its principal place of business in Indiana, it is not a citizen of the State of Indiana for purposes of diversity jurisdiction.

14. Defendant, MVS Transport, LLC, is a Texas limited liability company with its principal place of business in Texas.

15. Because MVS Transport, LLC is not incorporated in Indiana or have its principal place of business in Indiana, it is not a citizen of the State of Indiana for purposes of diversity jurisdiction.

16. There is complete diversity of citizenship between the parties named in this case.

17. Plaintiff's Complaint for Damages does not demand a specific sum of monetary damages. The State of Indiana does not permit a demand for a specific sum or permit recovery of damages in excess of the amount demanded. Therefore, this Notice of Removal states that the monetary value of the amount in controversy exceeds \$75,000, exclusive of interest and costs, based upon the following:

- a. According to Plaintiff's Complaint, Plaintiff sustained severe and permanent injuries, disfigurement, deformity, physical pain, mental suffering, is unable to function as a whole person, and has a diminished quality of life. (Compl. ¶ 10). Said injuries and damages are claimed to be permanent. *Id.*

- b. Per information from Plaintiff's counsel on September 26, 2022, Plaintiff's injuries and damages center upon his femur, broken vertebra, a traumatic brain injury, and an eye injury. Plaintiff was airlifted from the scene of the accident. At the hospital, Plaintiff underwent femur surgery.
- c. Plaintiff's counsel has conveyed his belief that the case value will exceed the amount in controversy of \$75,000, exclusive of interest and costs to remain in State Court.

18. Based upon the injuries alleged and damages claimed by Plaintiff, he seeks recovery in excess of \$75,000 exclusive of interest and costs, the value to Plaintiff of the relief sought in the Complaint exceeds \$75,000 exclusive of interest and costs, and/or the amount in controversy exceeds \$75,000 exclusive of interest and costs.

19. Therefore, this state court action is properly removed to this Court in accordance with 28 U.S.C. §§ 1441 and 1446 because: (1) this action is a civil action pending within the jurisdiction of the United States District Court for the Northern District of Indiana, Lafayette Division; (2) this action is between citizens of different States; (3) the amount in controversy exceeds \$75,000, exclusive of interest and costs.

STATUTORY REQUIREMENTS

20. Pursuant to 28 U.S.C. § 1446(a), a copy of the entire state court file is attached as an Exhibit and includes the State Court Record as of the date of this Notice of Removal, including the following: Plaintiff's Complaint, Appearance and Summons to Defendants.

21. A copy of this Notice of Removal has been filed in the Tippecanoe County Superior Court and all parties have been served with both this Notice of Removal and the Notice of Filing Notice of Removal.

WHEREFORE, Defendants, R&L FREIGHT, and GERSON MOLINA GUEVARA, by counsel, respectfully request that the above-entitled action be removed from the Tippecanoe County Superior Court to the United States District Court for the Northern District of Indiana, Lafayette Division.

LEWIS WAGNER, LLP

By: /s/ Lesley A. Pfleging
LESLEY A. PFLEGING, #26857-49A
ASIA L. ELLIS, #36820-49
***Counsel for Defendants, MVS Transport, LLC,
R&L Freight and Gerson Molina Guevara***

CERTIFICATE OF SERVICE

I hereby certify that on October 13, 2022, a copy of the foregoing **Notice of Removal** was filed electronically. Service of this filing will be made on all ECF-registered counsel by operation of the court's electronic filing system. Parties may access this filing through the court's system.

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By: /s/ Lesley A. Pfleging
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